

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MICHAEL SMITH,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION 05-0426-BH-D
)	
TOM TATE, et al.,)	
)	
Defendants.)	

ORDER

After due and proper consideration of all portions of this file deemed relevant to the issue raised, and there having been no objections filed, the Report and Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) is **ADOPTED** as the opinion of this Court. It is **ORDERED** that this action be and is hereby **DISMISSED without prejudice** for failure to prosecute.

DONE this 14th day of December, 2005.

s/ W. B. Hand
SENIOR DISTRICT JUDGE